

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROMEON TAPIA,

Plaintiff,

-v-

EXPERIAN INFORMATION
SOLUTIONS, INC., *et al.*,

Defendants.

22-CV-564 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

Plaintiff Tapia filed this action on January 21, 2022. (ECF No. 1.) Defendants Trans Union LLC, Equifax Information Services LLC, Experian Information Solutions, Inc., and TBF Financial LLC each filed answers on February 17, 2022, April 1, 2022, April 4, 2022, and April 8, 2022, respectively. (ECF Nos. 18, 20, 23, 30.) After further proceedings, the parties filed stipulations of voluntary dismissal on October 27, 2022, agreeing that the action be voluntarily dismissed against Defendants Trans Union LLC, Equifax Information Services LLC, and Experian Information Solutions, Inc. (ECF Nos. 46–48.) On August 29, 2023, this Court ordered Plaintiff to show cause within seven days as to why this case should not be dismissed as to the remaining defendant, TBF Financial LLC. (ECF No. 49.) To date, Plaintiff has not taken any action responsive to the Court’s order to show cause.

Federal Rule of Civil Procedure 41(b) authorizes a district court to dismiss an action “if the plaintiff fails to prosecute or to comply with the rules or a court order.” *Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014). It is settled that Rule 41(b) “gives the district court authority to dismiss a plaintiff’s case *sua sponte* for failure to prosecute.” *LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Dismissal without prejudice is appropriate here. Plaintiff was “given notice that further delay would result in dismissal,” *U.S. ex rel. Drake v. Norden Sys.*,

Inc., 375 F.3d 248, 254 (2d Cir. 2004), and there is prejudice where Plaintiff has caused an “unreasonable delay.” *LeSane*, 239 F.3d at 210. Dismissal without prejudice appropriately strikes a balance “between alleviating court calendar congestion and protecting a party’s right to due process and a fair chance to be heard.” *Id.* at 209.

Accordingly, this action is dismissed without prejudice as to the remaining defendant, TBF Financial.

The Clerk of Court is directed to close this case.

SO ORDERED.

Dated: September 7, 2023
New York, New York



J. PAUL OETKEN
United States District Judge